

As Passed by the Senate

**127th General Assembly
Regular Session
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Sub. S. B. No. 196

Senator Schaffer

**Cosponsors: Senators Carey, Cates, Schuler, Austria, Fedor, Harris,
Jacobson, Kearney, Mason, Mumper, Niehaus, Padgett, Roberts, Sawyer,
Smith, Spada, Wagoner**

—

A BILL

To amend sections 1151.345, 1161.59, 1721.211, 1
1733.51, 2108.81, 2117.251, 3103.03, 3901.04, 2
3905.451, 4717.01, 4717.03, 4717.13, 4717.14, 3
4717.99, and 5747.02, to enact sections 4717.31 to 4
4717.38, and to repeal sections 1111.19 and 5
1111.99 of the Revised Code to revise the Preneed 6
Funeral Contract Law. 7

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 1151.345, 1161.59, 1721.211, 8
1733.51, 2108.81, 2117.251, 3103.03, 3901.04, 3905.451, 4717.01, 9
4717.03, 4717.13, 4717.14, 4717.99, and 5747.02 be amended and 10
sections 4717.31, 4717.32, 4717.33, 4717.34, 4717.35, 4717.36, 11
4717.37, and 4717.38 of the Revised Code be enacted to read as 12
follows: 13

Sec. 1151.345. A savings and loan association, in accordance 14
with sections ~~1111.19 and~~ 1721.211 and 4717.31 to 4717.38 of the 15
Revised Code, may receive and hold on deposit moneys under a 16
preneed funeral contract or a preneed cemetery merchandise and 17

services contract. 18

Sec. 1161.59. In accordance with sections ~~1111.19~~ and 1721.211 and 4717.31 to 4717.38 of the Revised Code, a savings bank may receive and hold on deposit moneys under a preneed funeral contract or a preneed cemetery merchandise and services contract. 19
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Sec. 1721.211. (A) As used in this section, "preneed cemetery merchandise and services contract" means a written agreement, contract, or series of contracts to sell or otherwise provide an outer burial container, monument, marker, urn, other type of merchandise customarily sold by cemeteries, or opening and closing services to be used or provided in connection with the final disposition of a dead human body, where payment for the container, monument, marker, urn, other type of merchandise customarily sold by cemeteries, or opening and closing services is made either outright or on an installment basis, prior to the death of the person so purchasing or for whom so purchased. "Preneed cemetery merchandise and services contract" does not include any preneed funeral contract or any agreement, contract, or series of contracts pertaining to the sale of any burial lot, burial or interment right, entombment right, or columbarium right with respect to which an endowment care trust is established or is exempt from establishment pursuant to section 1721.21 of the Revised Code. 24
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(B) Subject to the limitations and restrictions contained in Chapters 1101. to 1127. of the Revised Code, a trust company licensed under Chapter 1111. of the Revised Code or a national bank, federal savings bank, or federal savings association that pledges securities in accordance with section 1111.04 of the Revised Code or the individuals described in division (C)(2) of this section have the power as trustee to receive and to hold and 42
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invest in accordance with sections 2109.37 and 2109.371 of the Revised Code moneys under a preneed cemetery merchandise and services contract.

(C)(1) ~~The greater of~~ Either one hundred ten per cent of the seller's actual cost or thirty per cent of the seller's retail price of the merchandise and seventy per cent of the seller's retail price of the services to be provided under a preneed cemetery merchandise and services contract shall remain intact as a fund until the death of the person for whose benefit the contract is made or the merchandise is delivered as set forth in division (K) of this section. However, any moneys held pursuant to this section shall be released upon demand of the person for whose benefit the contract was made or upon the demand of the seller for its share of the moneys held and earned interest if the contract has been canceled as set forth in division (G) of this section.

(2) The trustee of the fund described in division (C)(1) of this section shall be a trust company licensed under Chapter 1111. of the Revised Code or a national bank, federal savings bank, or federal savings association that pledges securities in accordance with section 1111.04 of the Revised Code or at least three individuals who have been residents of the county in which the seller is located for at least one year, each of whom shall be bonded by a corporate surety in an amount that is at least equal to the amount deposited in the fund of which those persons serve as trustee. Amounts in the fund shall be held and invested in the manner in which trust funds are permitted to be held and invested pursuant to sections 2109.37 and 2109.371 of the Revised Code.

(3) Every preneed cemetery and merchandise contract entered into on or after ~~the effective date of this amendment~~ October 12, 2006, shall include a provision in substantially the following form:

NOTICE: Under Ohio law, the person holding the right of 81
disposition of the remains of the beneficiary of this contract 82
pursuant to section 2108.70 or 2108.81 of the Revised Code will 83
have the right to purchase cemetery merchandise and services 84
inconsistent with the merchandise and services set forth in this 85
contract. However, the beneficiary is encouraged to state ~~his or~~ 86
~~her~~ the beneficiary's preferences as to the manner of final 87
disposition in a declaration of the right of disposition pursuant 88
to section 2108.72 of the Revised Code, including that the 89
arrangements set forth in this contract shall be followed. 90

(D) Within thirty days after the last business day of the 91
month in which the seller of cemetery merchandise or services 92
receives final contractual payment under a preneed cemetery 93
merchandise and services contract, the seller shall deliver ~~the~~ 94
~~greater of either~~ one hundred ten per cent of the seller's actual 95
cost or thirty per cent of the seller's retail price of the 96
merchandise and seventy per cent of the seller's current retail 97
price of the services as of the date of the contract to a trustee 98
or to trustees as described in division (C)(2) of this section, 99
and the moneys and accruals or income on the moneys shall be held 100
in a fund and designated for the person for whose benefit the fund 101
was established as a preneed cemetery merchandise and services 102
contract fund. 103

(E) The moneys received from more than one preneed cemetery 104
merchandise and services contract may, at the option of the 105
persons for whose benefit the contracts are made, be placed in a 106
common or pooled trust fund in this state under a single trust 107
instrument. If three individuals are designated as the trustees as 108
provided in division (C)(2) of this section, they shall be bonded 109
by a corporate surety or fidelity bond in an aggregate amount of 110
not less than one hundred per cent of the funds held by them as 111
trustees. The trustees or their agent shall, on a continuous 112

basis, keep exact records as to the amount of funds under a single trust instrument being held for the individual beneficiaries showing the amount paid, the amount deposited and invested, and accruals and income.

(F) The seller of merchandise or services under a preneed cemetery merchandise and services contract shall annually submit to the division of real estate of the department of commerce an affidavit in a form prescribed by the division, sworn under oath, specifying each of the following:

(1) That, within the time specified in division (D) of this section, the amounts required by that division were deposited in an appropriate fund;

(2) That the fund has not been used to collateralize or guarantee loans and has not otherwise been subjected to any consensual lien;

(3) That the fund is invested in compliance with the investing standards set forth in sections 2109.37 and 2109.371 of the Revised Code;

(4) That no moneys have been removed from the fund, except as provided for in this section.

(G) This division is subject to division (I) of this section.

Any person upon initially entering into a preneed cemetery merchandise and services contract may, within seven days, cancel the contract and request and receive from the seller one hundred per cent of all payments made under the contract. After the expiration of the above period, any person who has entered into a preneed cemetery merchandise and services contract may, on not less than fifteen days' notice, cancel the contract and request and receive from the seller sixty per cent of the payments made under the contract which have been paid up to the time of cancellation; except that, if a preneed cemetery merchandise and

services contract stipulates a firm or fixed or guaranteed price 144
for the merchandise or services for future use at a time 145
determined by the death of the person on behalf of whom payments 146
are made, the person who has entered into the contract may, if the 147
merchandise has not been delivered or the services have not been 148
performed as set forth in division (K) or (L) of this section, on 149
not less than fifteen days' notice, cancel the contract and 150
receive from the seller sixty per cent of the principal paid 151
pursuant to the contract and not less than eighty per cent of any 152
interest paid, up to the time of cancellation, and not less than 153
eighty per cent of any accrual or income earned while the moneys 154
have been held pursuant to divisions (C) and (D) of this section, 155
up to the time of cancellation. Upon cancellation, after the 156
moneys have been distributed to the beneficiary pursuant to this 157
division, all remaining moneys being held pursuant to divisions 158
(C) and (D) of this section shall be paid to the seller. If more 159
than one person enters into the contract, all of those persons 160
must request cancellation for it to be effective under this 161
division. In such a case, the seller shall refund to each person 162
only those moneys that each person has paid under the contract. 163

(H) Upon receipt of a certified copy of the certificate of 164
death or evidence of delivery of the merchandise or performance of 165
the services pursuant to division (K) or (L) of this section, the 166
trustee described in division (C)(2) of this section or its agent, 167
shall forthwith pay the fund and accumulated interest, if any, to 168
the person entitled to them under the preneed cemetery merchandise 169
and services contract. The payment of the fund and accumulated 170
interest pursuant to this section, either to a seller or person 171
making the payments, shall relieve the trustee of any further 172
liability on the fund or accumulated interest. 173

(I) Notwithstanding any other provision of this section, any 174
preneed cemetery merchandise and services contract may specify 175

that it is irrevocable. All irrevocable preneed cemetery 176
merchandise and services contracts shall include a clear and 177
conspicuous disclosure of irrevocability in the contract and any 178
person entering into an irrevocable preneed cemetery merchandise 179
and services contract shall sign a separate acknowledgment of the 180
person's waiver of the right to revoke. If a contract satisfies 181
the requirements of this division, division (G) of this section 182
does not apply to that contract. 183

(J) Any preneed cemetery merchandise and services contract 184
that involves the payment of money shall be in writing and in 185
compliance with the laws and rules of this state. 186

(K) For purposes of this section, the seller is considered to 187
have delivered merchandise pursuant to a preneed cemetery 188
merchandise and services contract when either of the following 189
occur: 190

(1) The seller makes actual delivery of the merchandise to 191
the beneficiary, or the seller pays for the merchandise and 192
identifies it as being stored for the benefit of the beneficiary 193
at a manufacturer's warehouse. 194

(2) The seller receives delivery of the merchandise on behalf 195
of the beneficiary, and all of the following occur: 196

(a) The merchandise is permanently affixed to or stored upon 197
the real property of a cemetery located in this state. 198

(b) The seller notifies the beneficiary of receipt of the 199
merchandise and identifies the specific location of the 200
merchandise. 201

(c) The seller at the time of the beneficiary's final payment 202
provides the beneficiary with evidence of ownership in the 203
beneficiary's name showing the merchandise to be free and clear of 204
any liens or other encumbrances. 205

(L) For purposes of this section, a seller is considered to have performed services pursuant to a preneed cemetery merchandise and services contract when the beneficiary's next of kin signs a written statement that the services have been performed or, if no next of kin of the beneficiary can be located through reasonable diligence, when the owner or other person responsible for the operation of the cemetery signs a statement of that nature.

(M) Notwithstanding any other provision of this chapter, any trust may be charged a trustee's fee, which is to be deducted from the earned income or accruals on that trust. The fee shall not exceed the amount that is regularly or usually charged for similar services rendered by the trustee described in division (C)(2) of this section when serving as a trustee.

(N) The general assembly intends that this section be construed as a limitation upon the manner in which a person is permitted to accept moneys in prepayment for merchandise and services to be delivered or provided in the future, or merchandise and services to be used or provided in connection with the final disposition of human remains, to the end that at all times members of the public may have an opportunity to arrange and pay for merchandise and services for themselves and their families in advance of need while at the same time providing all possible safeguards whereunder the prepaid moneys cannot be dissipated, whether intentionally or not, so as to be available for the payment for merchandise and services and the providing of merchandise and services used or provided in connection with the final disposition of dead human bodies.

(O) This section does not apply to the seller or provider of merchandise or services under a preneed cemetery merchandise and services contract if the contract pertains to a cemetery that is owned and operated entirely and exclusively by an established and legally cognizable church or denomination that is exempt from

federal income taxation under section 501(c)(3) of the "Internal Revenue Code of 1954," 26 U.S.C.A. 501, an established fraternal organization, or a municipal corporation or other political subdivision of the state, to a cemetery that is a national cemetery, or to a cemetery that is a family cemetery as defined in section 4767.02 of the Revised Code; provided that, on a voluntary basis, rules and other measures are adopted to safeguard and secure all moneys received under a preneed cemetery merchandise and services contract.

(P) This section does not prohibit persons other than cemetery corporations or associations from selling outer burial containers, monuments, markers, urns, or other types of merchandise customarily sold by cemeteries pursuant to a preneed cemetery merchandise and services contract; however all sellers of merchandise pursuant to a preneed cemetery merchandise and services contract shall comply with this section unless the seller is specifically exempt from this section.

(Q) Any contract for preneed services or merchandise entered into with a cemetery not registered under section 4767.03 of the Revised Code is voidable.

Sec. 1733.51. A credit union may, subject to sections ~~1111.19~~ and 1721.211 and 4717.31 to 4717.38 of the Revised Code, receive and hold on deposit moneys under a preneed funeral contract or preneed cemetery merchandise and services contract.

Sec. 2108.81. (A) If either of the following is true, division (B) of this section shall apply:

(1) An adult has not executed a written declaration pursuant to sections 2108.70 to 2108.73 of the Revised Code that remains in force at the time of the adult's death.

(2) Each person to whom the right of disposition has been

assigned or reassigned pursuant to a written declaration is	268
disqualified from exercising the right as described in section	269
2108.75 of the Revised Code.	270
(B) Subject to division (A) of this section and sections	271
2108.75 and 2108.79 of the Revised Code, the right of disposition	272
is assigned to the following persons, if mentally competent adults	273
who can be located with reasonable effort, in the order of	274
priority stated:	275
(1) The deceased person's surviving spouse;	276
(2) The sole surviving child of the deceased person or, if	277
there is more than one surviving child, all of the surviving	278
children, collectively;	279
(3) The deceased person's surviving parent or parents;	280
(4) The deceased person's surviving sibling, whether of the	281
whole or of the half blood or, if there is more than one sibling	282
of the whole or of the half blood, all of the surviving siblings,	283
collectively;	284
(5) The deceased person's surviving grandparent or	285
grandparents;	286
(6) <u>The deceased person's surviving grandchild, or if there</u>	287
<u>is more than one surviving grandchild, all of the surviving</u>	288
<u>grandchildren collectively;</u>	289
<u>(7)</u> The lineal descendants of the deceased person's	290
grandparents, as described in division (I) of section 2105.06 of	291
the Revised Code;	292
(7) <u>(8)</u> The person who was the deceased person's guardian at	293
the time of the deceased person's death, if a guardian had been	294
appointed;	295
(8) <u>(9)</u> Any other person willing to assume the right of	296
disposition, including the personal representative of the deceased	297

person's estate or the licensed funeral director with custody of 298
the deceased person's body, after attesting in writing that a good 299
faith effort has been made to locate the persons in divisions 300
(B)(1) to (7) of this section. 301

(10) If the deceased person was an indigent person or other 302
person the final disposition of whose body is the financial and 303
statutory responsibility of the state or a political subdivision 304
of this state, the public officer or employee responsible for 305
arranging the final disposition of the remains of the deceased 306
person. 307

Sec. 2117.251. A claim under the bill of a funeral director 308
pursuant to section 2117.25 of the Revised Code arises subsequent 309
to the death of the decedent and is not in satisfaction of a 310
personal obligation of the individual during the individual's 311
lifetime. If a decedent during the decedent's lifetime has 312
purchased an irrevocable preneed funeral contract pursuant to 313
section ~~1111.19~~ 4717.34 of the Revised Code, then those provisions 314
of section 2117.25 of the Revised Code that relate to the bill of 315
a funeral director, including divisions (A) and (B) of that 316
section, do not apply to the estate of the decedent and the estate 317
is not liable for the funeral expenses of the decedent. 318

Sec. 3103.03. (A) Each married person must support the 319
person's self and spouse out of the person's property or by the 320
person's labor. If a married person is unable to do so, the spouse 321
of the married person must assist in the support so far as the 322
spouse is able. The biological or adoptive parent of a minor child 323
must support the parent's minor children out of the parent's 324
property or by the parent's labor. 325

(B) Notwithstanding section 3109.01 of the Revised Code and 326
to the extent provided in section ~~3319.86~~ 3119.86 of the Revised 327

Code, the parental duty of support to children shall continue 328
beyond the age of majority as long as the child continuously 329
attends on a full-time basis any recognized and accredited high 330
school. That duty of support shall continue during seasonal 331
vacation periods. 332

(C) If a married person neglects to support the person's 333
spouse in accordance with this section, any other person, in good 334
faith, may supply the spouse with necessaries for the support of 335
the spouse and recover the reasonable value of the necessaries 336
supplied from the married person who neglected to support the 337
spouse unless the spouse abandons that person without cause. 338

(D) If a parent neglects to support the parent's minor child 339
in accordance with this section and if the minor child in question 340
is unemancipated, any other person, in good faith, may supply the 341
minor child with necessaries for the support of the minor child 342
and recover the reasonable value of the necessaries supplied from 343
the parent who neglected to support the minor child. 344

(E) If a decedent during the decedent's lifetime has 345
purchased an irrevocable preneed funeral contract pursuant to 346
section ~~1109.75~~ 4717.34 of the Revised Code, then the duty of 347
support owed to a spouse pursuant to this section does not include 348
an obligation to pay for the funeral expenses of the deceased 349
spouse. This division does not preclude a surviving spouse from 350
assuming by contract the obligation to pay for the funeral 351
expenses of the deceased spouse. 352

Sec. 3901.04. (A) As used in this section: 353

(1) "Laws of this state relating to insurance" include but 354
are not limited to Chapter 1751. notwithstanding section 1751.08, 355
Chapter 1753., Title XXXIX, sections 5725.18 to 5725.25, and 356
Chapter 5729. of the Revised Code. Sections 4717.31, 4717.33, 357
4717.34, 4717.35, and 4717.37 of the Revised Code are "laws of 358

this state relating to insurance" to the extent those sections 359
apply to insurance companies or insurance agents. 360

(2) "Person" has the meaning defined in division (A) of 361
section 3901.19 of the Revised Code. 362

(B) Whenever it appears to the superintendent of insurance, 363
from the superintendent's files, upon complaint or otherwise, that 364
any person has engaged in, is engaged in, or is about to engage in 365
any act or practice declared to be illegal or prohibited by the 366
laws of this state relating to insurance, or defined as unfair or 367
deceptive by such laws, or when the superintendent believes it to 368
be in the best interest of the public and necessary for the 369
protection of the people in this state, the superintendent or 370
anyone designated by the superintendent under the superintendent's 371
official seal may do any one or more of the following: 372

(1) Require any person to file with the superintendent, on a 373
form that is appropriate for review by the superintendent, an 374
original or additional statement or report in writing, under oath 375
or otherwise, as to any facts or circumstances concerning the 376
person's conduct of the business of insurance within this state 377
and as to any other information that the superintendent considers 378
to be material or relevant to such business; 379

(2) Administer oaths, summon and compel by order or subpoena 380
the attendance of witnesses to testify in relation to any matter 381
which, by the laws of this state relating to insurance, is the 382
subject of inquiry and investigation, and require the production 383
of any book, paper, or document pertaining to such matter. A 384
subpoena, notice, or order under this section may be served by 385
certified mail, return receipt requested. If the subpoena, notice, 386
or order is returned because of inability to deliver, or if no 387
return is received within thirty days of the date of mailing, the 388
subpoena, notice, or order may be served by ordinary mail. If no 389
return of ordinary mail is received within thirty days after the 390

date of mailing, service shall be deemed to have been made. If the 391
subpoena, notice, or order is returned because of inability to 392
deliver, the superintendent may designate a person or persons to 393
effect either personal or residence service upon the witness. 394
Service of any subpoena, notice, or order and return may also be 395
made in any manner authorized under the Rules of Civil Procedure. 396
Such service shall be made by an employee of the department 397
designated by the superintendent, a sheriff, a deputy sheriff, an 398
attorney, or any person authorized by the Rules of Civil Procedure 399
to serve process. 400

In the case of disobedience of any notice, order, or subpoena 401
served on a person or the refusal of a witness to testify to a 402
matter regarding which the person may lawfully be interrogated, 403
the court of common pleas of the county where venue is 404
appropriate, on application by the superintendent, may compel 405
obedience by attachment proceedings for contempt, as in the case 406
of disobedience of the requirements of a subpoena issued from such 407
court, or a refusal to testify therein. Witnesses shall receive 408
the fees and mileage allowed by section 2335.06 of the Revised 409
Code. All such fees, upon the presentation of proper vouchers 410
approved by the superintendent, shall be paid out of the 411
appropriation for the contingent fund of the department of 412
insurance. The fees and mileage of witnesses not summoned by the 413
superintendent or the superintendent's designee shall not be paid 414
by the state. 415

(3) In a case in which there is no administrative procedure 416
available to the superintendent to resolve a matter at issue, 417
request the attorney general to commence an action for a 418
declaratory judgment under Chapter 2721. of the Revised Code with 419
respect to the matter. 420

(4) Initiate criminal proceedings by presenting evidence of 421
the commission of any criminal offense established under the laws 422

of this state relating to insurance to the prosecuting attorney of 423
any county in which the offense may be prosecuted. At the request 424
of the prosecuting attorney, the attorney general may assist in 425
the prosecution of the violation with all the rights, privileges, 426
and powers conferred by law on prosecuting attorneys including, 427
but not limited to, the power to appear before grand juries and to 428
interrogate witnesses before grand juries. 429

Sec. 3905.451. A life insurance policy or annuity that is 430
issued, sold, or assigned for the purpose of purchasing funeral or 431
burial goods or services, and the contractual obligation to 432
provide the goods or services, are not subject to section ~~1111.19~~ 433
4717.36 of the Revised Code. 434

Sec. 4717.01. As used in this chapter: 435

(A) "Embalming" means the preservation and disinfection, or 436
attempted preservation and disinfection, of the dead human body by 437
application of chemicals externally, internally, or both. 438

(B) "Funeral business" means a sole proprietorship, 439
partnership, corporation, limited liability company, or other 440
business entity that is engaged in funeral directing for profit or 441
for free from one or more funeral homes licensed under this 442
chapter. 443

(C) "Funeral directing" means the business or profession of 444
directing or supervising funerals for profit, the arrangement or 445
sale of funeral services, the filling out or execution of a 446
funeral service contract, the business or profession of preparing 447
dead human bodies for burial by means other than embalming, the 448
disposition of dead human bodies, the provision or maintenance of 449
a place for the preparation, the care, or disposition of dead 450
human bodies, the use in connection with a business of the term 451
"funeral director," "undertaker," "mortician," or any other term 452

from which can be implied the business of funeral directing, or 453
the holding out to the public that one is a funeral director or a 454
disposer of dead human bodies. 455

(D) "Funeral home" means a fixed place for the care, 456
preparation for burial, or disposition of dead human bodies or the 457
conducting of funerals. Each business location is a funeral home, 458
regardless of common ownership or management. 459

(E) "Embalmer" means a person who engages, in whole or in 460
part, in embalming and who is licensed under this chapter. 461

(F) "Funeral director" means a person who engages, in whole 462
or in part, in funeral directing and who is licensed under this 463
chapter. 464

(G) "Final disposition" has the same meaning as in division 465
(J) of section 3705.01 of the Revised Code. 466

(H) "Supervision" means the operation of all phases of the 467
business of funeral directing or embalming under the specific 468
direction of a licensed funeral director or licensed embalmer. 469

(I) "Direct supervision" means the physical presence of a 470
licensed funeral director or licensed embalmer while the specific 471
functions of the funeral or embalming are being carried out. 472

(J) "Embalming facility" means a fixed location, separate 473
from the funeral home, that is licensed under this chapter whose 474
only function is the embalming and preparation of dead human 475
bodies. 476

(K) "Crematory facility" means the physical location at which 477
a cremation chamber is located and the cremation process takes 478
place. "Crematory facility" does not include an infectious waste 479
incineration facility for which a license is held under division 480
(B) of section 3734.05 of the Revised Code, or a solid waste 481
incineration facility for which a license is held under division 482

(A) of that section that includes a notation pursuant to division 483
(B)(3) of that section authorizing the facility to also treat 484
infectious wastes, in connection with the incineration of body 485
parts other than dead human bodies that were donated to science 486
for purposes of medical education or research. 487

(L) "Crematory" means the building or portion of a building 488
that houses the holding facility and the cremation chamber. 489

(M) "Cremation" means the technical process of using heat and 490
flame to reduce human or animal remains to bone fragments or ashes 491
or any combination thereof. "Cremation" includes processing and 492
may include the pulverization of bone fragments. 493

(N) "Cremation chamber" means the enclosed space within which 494
cremation takes place. 495

(O) "Cremated remains" means all human or animal remains 496
recovered after the completion of the cremation process, which may 497
include the residue of any foreign matter such as casket material, 498
dental work, or eyeglasses that were cremated with the human or 499
animal remains. 500

(P) "Lapsed license" means a license issued under this 501
chapter that has become invalid because of the failure of the 502
licensee to renew the license within the time limits prescribed 503
under this chapter. 504

(Q) "Operator of a crematory facility" means the sole 505
proprietorship, partnership, corporation, limited liability 506
company, or other business entity responsible for the overall 507
operation of a crematory facility. 508

(R) "Processing" means the reduction of identifiable bone 509
fragments to unidentifiable bone fragments through manual or 510
mechanical means after the completion of the cremation process. 511

(S) "Pulverization" means the reduction of identifiable bone 512

fragments to granulated particles by manual or mechanical means 513
after the completion of the cremation process. 514

(T) "Preneed funeral contract" means a written agreement, 515
contract, or series of contracts to sell or otherwise provide any 516
funeral services, funeral goods, or any combination thereof to be 517
used in connection with the funeral or final disposition of a dead 518
human body, where payment for the goods or services is made either 519
outright or on an installment basis, prior to the death of the 520
person purchasing the goods or services or for whom the goods or 521
services are purchased. "Preneed funeral contract" does not 522
include any preneed cemetery merchandise and services contract or 523
any agreement, contract, or series of contracts pertaining to the 524
sale of any burial lot, burial or interment right, entombment 525
right, or columbarium right with respect to which an endowment 526
care fund is established or is exempt from establishment pursuant 527
to section 1721.21 of the Revised Code. 528

For the purposes of division (T) of this section, "funeral 529
goods" includes caskets. 530

(U) "Purchaser" means the individual who has purchased and 531
financed a preneed funeral contract, and who may or may not be the 532
contract beneficiary. 533

(V) "Contract beneficiary" means the individual for whom 534
funeral goods and funeral services are provided pursuant to a 535
preneed funeral contract. 536

(W) "Seller" means any person that enters into a preneed 537
funeral contract with a purchaser for the provision of funeral 538
goods, funeral services, or both. 539

Sec. 4717.03. (A) Members of the board of embalmers and 540
funeral directors shall annually in July, or within thirty days 541
after the senate's confirmation of the new members appointed in 542

that year, meet and organize by selecting from among its members a 543
president, vice-president, and secretary-treasurer. The board may 544
hold other meetings as it determines necessary. A quorum of the 545
board consists of four members, of whom at least three shall be 546
members who are embalmers and funeral directors. The concurrence 547
of at least four members is necessary for the board to take any 548
action. The president and secretary-treasurer shall sign all 549
licenses issued under this chapter and affix the board's seal to 550
each license. 551

(B) The board may appoint an individual who is not a member 552
of the board to serve as executive director of the board. The 553
executive director serves at the pleasure of the board and shall 554
do all of the following: 555

- (1) Serve as the board's chief administrative officer; 556
- (2) Act as custodian of the board's records; 557
- (3) Execute all of the board's orders. 558

In executing the board's orders, the executive director may 559
enter the premises, establishment, office, or place of business of 560
any embalmer, funeral director, or operator of a crematory 561
facility in this state. The executive director may serve and 562
execute any process issued by any court under this chapter. 563

(C) The board may employ clerical or technical staff who are 564
not members of the board and who serve at the pleasure of the 565
board to provide any clerical or technical assistance the board 566
considers necessary. The board may employ necessary inspectors, 567
who shall be licensed embalmers and funeral directors. Any 568
inspector employed by the board may enter the premises, 569
establishment, office, or place of business of any embalmer, 570
funeral director, or operator of a crematory facility in this 571
state, for the purposes of inspecting the facility and premises; 572
the license and registration of embalmers and funeral directors 573

operating in the facility; and the license of the funeral home, 574
embalming facility, or crematory. The inspector shall serve and 575
execute any process issued by any court under this chapter, serve 576
and execute any papers or process issued by the board or any 577
officer or member of the board, and perform any other duties 578
delegated by the board. 579

(D) The president of the board shall designate three of its 580
members to serve on the crematory review board, which is hereby 581
created, for such time as the president finds appropriate to carry 582
out the provisions of this chapter. Those members of the crematory 583
review board designated by the president to serve and three 584
members designated by the cemetery dispute resolution commission 585
shall designate, by a majority vote, one person who is experienced 586
in the operation of a crematory facility and who is not affiliated 587
with a cemetery or a funeral home to serve on the crematory review 588
board for such time as the crematory review board finds 589
appropriate. Members serving on the crematory review board shall 590
not receive any additional compensation for serving on the board, 591
but may be reimbursed for their actual and necessary expenses 592
incurred in the performance of official duties as members of the 593
board. Members of the crematory review board shall designate one 594
from among its members to serve as a chairperson for such time as 595
the board finds appropriate. Costs associated with conducting an 596
adjudicatory hearing in accordance with division (E) of this 597
section shall be paid from funds available to the board of 598
embalmers and funeral directors. 599

(E) Upon receiving written notice from the board of embalmers 600
and funeral directors of any of the following, the crematory 601
review board shall conduct an adjudicatory hearing on the matter 602
in accordance with Chapter 119. of the Revised Code, except as 603
otherwise provided in this section or division (C) of section 604
4717.14 of the Revised Code: 605

(1) Notice provided under division (H) of this section of an 606
alleged violation of any provision of this chapter or any rules 607
adopted under this chapter, ~~or section 1111.19 of the Revised~~ 608
~~Code~~, governing or in connection with crematory facilities or 609
cremation; 610

(2) Notice provided under division (B) of section 4717.14 of 611
the Revised Code that the board of embalmers and funeral directors 612
proposes to refuse to grant or renew, or to suspend or revoke, a 613
license to operate a crematory facility; 614

(3) Notice provided under division (C) of section 4717.14 of 615
the Revised Code that the board of embalmers and funeral directors 616
has issued an order summarily suspending a license to operate a 617
crematory facility; 618

(4) Notice provided under division (B) of section 4717.15 of 619
the Revised Code that the board of embalmers and funeral directors 620
proposes to issue a notice of violation and order requiring 621
payment of a forfeiture for any violation described in divisions 622
(A)(9)(a) to (g) of section 4717.04 of the Revised Code alleged in 623
connection with a crematory facility or cremation. 624

Nothing in division (E) of this section precludes the 625
crematory review board from appointing an independent examiner in 626
accordance with section 119.09 of the Revised Code to conduct any 627
adjudication hearing required under division (E) of this section. 628

The crematory review board shall submit a written report of 629
findings and advisory recommendations, and a written transcript of 630
its proceedings, to the board of embalmers and funeral directors. 631
The board of embalmers and funeral directors shall serve a copy of 632
the written report of the crematory review board's findings and 633
advisory recommendations on the party to the adjudication or the 634
party's attorney, by certified mail, within five days after 635
receiving the report and advisory recommendations. A party may 636

file objections to the written report with the board of embalmers 637
and funeral directors within ten days after receiving the report. 638
No written report is final or appealable until it is issued as a 639
final order by the board of embalmers and funeral directors and 640
entered on the record of the proceedings. The board of embalmers 641
and funeral directors shall consider objections filed by the party 642
prior to issuing a final order. After reviewing the findings and 643
advisory recommendations of the crematory review board, the 644
written transcript of the crematory review board's proceedings, 645
and any objections filed by a party, the board of embalmers and 646
funeral directors shall issue a final order in the matter. Any 647
party may appeal the final order issued by the board of embalmers 648
and funeral directors in a matter described in divisions (E)(1) to 649
(4) of this section in accordance with section 119.12 of the 650
Revised Code, except that the appeal may be made to the court of 651
common pleas in the county in which is located the crematory 652
facility to which the final order pertains, or in the county in 653
which the party resides. 654

(F) On its own initiative or on receiving a written complaint 655
from any person whose identity is made known to the board of 656
embalmers and funeral directors, the board shall investigate the 657
acts or practices of any person holding or claiming to hold a 658
license or registration under this chapter that, if proven to have 659
occurred, would violate this chapter or any rules adopted under 660
it, ~~or section 1111.19 of the Revised Code.~~ The board may compel 661
witnesses by subpoena to appear and testify in relation to 662
investigations conducted under this chapter and may require by 663
subpoena duces tecum the production of any book, paper, or 664
document pertaining to an investigation. If a person does not 665
comply with a subpoena or subpoena duces tecum, the board may 666
apply to the court of common pleas of any county in this state for 667
an order compelling the person to comply with the subpoena or 668
subpoena duces tecum, or for failure to do so, to be held in 669

contempt of court. 670

(G) If, as a result of its investigation conducted under 671
division (F) of this section, the board of embalmers and funeral 672
directors has reasonable cause to believe that the person 673
investigated is violating any provision of this chapter or any 674
rules adopted under this chapter, ~~or section 1111.19 of the~~ 675
~~Revised Code,~~ governing or in connection with embalming, funeral 676
directing, funeral homes, embalming facilities, or the operation 677
of funeral homes or embalming facilities, it may, after providing 678
the opportunity for an adjudicatory hearing, issue an order 679
directing the person to cease the acts or practices that 680
constitute the violation. The board shall conduct the adjudicatory 681
hearing in accordance with Chapter 119. of the Revised Code except 682
that, notwithstanding the provisions of that chapter, the 683
following shall apply: 684

(1) The board shall send the notice informing the person of 685
the person's right to a hearing by certified mail. 686

(2) The person is entitled to a hearing only if the person 687
requests a hearing and if the board receives the request within 688
thirty days after the mailing of the notice described in division 689
(G)(1) of this section. 690

(3) A stenographic record shall be taken, in the manner 691
prescribed in section 119.09 of the Revised Code, at every 692
adjudicatory hearing held under this section, regardless of 693
whether the record may be the basis of an appeal to a court. 694

(H) If, as a result of its investigation conducted under 695
division (F) of this section, the board of embalmers and funeral 696
directors has reasonable cause to believe that the person 697
investigated is violating any provision of this chapter or any 698
rules adopted under this chapter, ~~or section 1111.19 of the~~ 699
~~Revised Code,~~ governing or in connection with crematory facilities 700

or cremation, the board shall send written notice of the alleged 701
violation to the crematory review board. If, after the conclusion 702
of the adjudicatory hearing in the matter conducted under division 703
(E) of this section, the board of embalmers and funeral directors 704
finds that a person is in violation of any provision of this 705
chapter or any rules adopted under this chapter, ~~or section~~ 706
~~1111.19 of the Revised Code,~~ governing or in connection with 707
crematory facilities or cremation, the board may issue a final 708
order under that division directing the person to cease the acts 709
or practices that constitute the violation. 710

(I) The board of embalmers and funeral directors may bring a 711
civil action to enjoin any violation or threatened violation of 712
~~section 1111.19;~~ sections 4717.01 to 4717.15 of the Revised Code 713
or a rule adopted under any of those sections; division (A) or (B) 714
of section 4717.23; division (B)(1) or (2), (C)(1) or (2), (D), 715
(E), or (F)(1) or (2), or divisions (H) to (K) of section 4717.26; 716
division (D)(1) of section 4717.27; ~~or~~ divisions (A) to (C) of 717
section 4717.28, or division (D) or (E) of section 4717.31 of the 718
Revised Code. The action shall be brought in the county where the 719
violation occurred or the threatened violation is expected to 720
occur. At the request of the board, the attorney general shall 721
represent the board in any matter arising under this chapter. 722

(J) The board of embalmers and funeral directors and the 724
crematory review board may issue subpoenas for funeral directors 725
and embalmers or persons holding themselves out as such, for 726
operators of crematory facilities or persons holding themselves 727
out as such, or for any other person whose testimony, in the 728
opinion of either board, is necessary. The subpoena shall require 729
the person to appear before the appropriate board or any 730
designated member of either board, upon any hearing conducted 731
under this chapter. The penalty for disobedience to the command of 732

such a subpoena is the same as for refusal to answer such a 733
process issued under authority of the court of common pleas. 734

(K) All moneys received by the board of embalmers and funeral 735
directors from any source shall be deposited in the state treasury 736
to the credit of the occupational licensing and regulatory fund 737
created in section 4743.05 of the Revised Code. 738

(L) The board of embalmers and funeral directors shall submit 739
a written report to the governor on or before the first Monday of 740
July of each year. This report shall contain a detailed statement 741
of the nature and amount of the board's receipts and the amount 742
and manner of its expenditures. 743

Sec. 4717.13. (A) No person shall do any of the following: 744

(1) Engage in the business or profession of funeral directing 745
unless the person is licensed as a funeral director under this 746
chapter, is certified as an apprentice funeral director in 747
accordance with rules adopted under section 4717.04 of the Revised 748
Code and is assisting a funeral director licensed under this 749
chapter, or is a student in a college of mortuary sciences 750
approved by the board and is under the direct supervision of a 751
funeral director licensed by the board; 752

(2) Engage in embalming unless the person is licensed as an 753
embalmer under this chapter, is certified as an apprentice 754
embalmer in accordance with rules adopted under section 4717.04 of 755
the Revised Code and is assisting an embalmer licensed under this 756
chapter, or is a student in a college of mortuary science approved 757
by the board and is under the direct supervision of an embalmer 758
licensed by the board; 759

(3) Advertise or otherwise offer to provide or convey the 760
impression that the person provides funeral directing services 761
unless the person is licensed as a funeral director under this 762

chapter and is employed by or under contract to a licensed funeral 763
home and performs funeral directing services for that funeral home 764
in a manner consistent with the advertisement, offering, or 765
conveyance; 766

(4) Advertise or otherwise offer to provide or convey the 767
impression that the person provides embalming services unless the 768
person is licensed as an embalmer under this chapter and is 769
employed by or under contract to a licensed funeral home or a 770
licensed embalming facility and performs embalming services for 771
the funeral home or embalming facility in a manner consistent with 772
the advertisement, offering, or conveyance; 773

(5) Operate a funeral home without a license to operate the 774
funeral home issued by the board under this chapter; 775

(6) Practice the business or profession of funeral directing 776
from any place except from a funeral home that a person is 777
licensed to operate under this chapter; 778

(7) Practice embalming from any place except from a funeral 779
home or embalming facility that a person is licensed to operate 780
under this chapter; 781

(8) Operate a crematory or perform cremation without a 782
license to operate the crematory issued under this chapter; 783

(9) Cremate animals in a cremation chamber in which dead 784
human bodies or body parts are cremated or cremate dead human 785
bodies or human body parts in a cremation chamber in which animals 786
are cremated. 787

(B) No funeral director or other person in charge of the 788
final disposition of a dead human body shall fail to do one of the 789
following prior to the interment of the body: 790

(1) Affix to the ankle or wrist of the deceased a tag encased 791
in a durable and long-lasting material that contains the name, 792

date of birth, date of death, and social security number of the 793
deceased; 794

(2) Place in the casket a capsule containing a tag bearing 795
the information described in division (B)(1) of this section; 796

(3) If the body was cremated, place in the vessel containing 797
the cremated remains a tag bearing the information described in 798
division (B)(1) of this section. 799

(C) No person who holds a funeral home license for a funeral 800
home that is closed, or that is owned by a funeral business in 801
which changes in the ownership of the funeral business result in a 802
majority of the ownership of the funeral business being held by 803
one or more persons who solely or in combination with others did 804
not own a majority of the funeral business immediately prior to 805
the change in ownership, shall fail to submit to the board within 806
thirty days after the closing or such a change in ownership of the 807
funeral business owning the funeral home, a clearly enumerated 808
account of all of the following from which the licensee, at the 809
time of the closing or change in ownership of the funeral business 810
and in connection with the funeral home, was to receive payment 811
for providing funeral services, funeral goods, or any combination 812
of those in connection with the funeral or final disposition of a 813
dead human body: 814

(1) Preneed funeral contracts governed by ~~section 1111.19~~ 815
sections 4717.31 to 4717.38 of the Revised Code; 816

(2) Life insurance policies or annuities the benefits of 817
which are payable to the provider of funeral or burial goods or 818
services; 819

(3) Accounts at banks or savings banks insured by the federal 820
deposit insurance corporation, savings and loan associations 821
insured by the federal savings and loan insurance corporation or 822
the Ohio deposit guarantee fund, or credit unions insured by the 823

national credit union administration or a credit union share 824
guaranty corporation organized under Chapter 1761. of the Revised 825
Code that are payable upon the death of the person for whose 826
benefit deposits into the accounts were made. 827

Sec. 4717.14. (A) The board of embalmers and funeral 828
directors may refuse to grant or renew, or may suspend or revoke, 829
any license issued under this chapter for any of the following 830
reasons: 831

(1) The license was obtained by fraud or misrepresentation 832
either in the application or in passing the examination. 833

(2) The applicant or licensee has been convicted of or has 834
pleaded guilty to a felony or of any crime involving moral 835
turpitude. 836

(3) The applicant or licensee has purposely violated any 837
provision of sections 4717.01 to 4717.15 or a rule adopted under 838
any of those sections; division (A) or (B) of section 4717.23; 839
division (B)(1) or (2), (C)(1) or (2), (D), (E), or (F)(1) or (2), 840
or divisions (H) to (K) of section 4717.26; division (D)(1) of 841
section 4717.27; or divisions (A) to (C) of section 4717.28 of the 842
Revised Code; any rule or order of the department of health or a 843
board of health of a health district governing the disposition of 844
dead human bodies; or any other rule or order applicable to the 845
applicant or licensee. 846

(4) The applicant or licensee has committed immoral or 847
unprofessional conduct. 848

(5) The applicant or licensee knowingly permitted an 849
unlicensed person, other than a person serving an apprenticeship, 850
to engage in the profession or business of embalming or funeral 851
directing under the applicant's or licensee's supervision. 852

(6) The applicant or licensee has been habitually 853

intoxicated, or is addicted to the use of morphine, cocaine, or 854
other habit-forming or illegal drugs. 855

(7) The applicant or licensee has refused to promptly submit 856
the custody of a dead human body upon the express order of the 857
person legally entitled to the body. 858

(8) The licensee loaned the licensee's own license, or the 859
applicant or licensee borrowed or used the license of another 860
person, or knowingly aided or abetted the granting of an improper 861
license. 862

(9) The applicant or licensee transferred a license to 863
operate a funeral home, embalming facility, or crematory from one 864
owner or operator to another, or from one location to another, 865
without notifying the board. 866

(10) The applicant or licensee mislead the public by using 867
false or deceptive advertising. 868

(B)(1) The board of embalmers and funeral directors shall 869
refuse to grant or renew, or shall suspend or revoke, an 870
embalmer's, funeral director's, funeral home, or embalming 871
facility license only in accordance with Chapter 119. of the 872
Revised Code. 873

(2) The board shall send to the crematory review board 874
written notice that it proposes to refuse to issue or renew, or 875
proposes to suspend or revoke, a license to operate a crematory 876
facility. If, after the conclusion of the adjudicatory hearing on 877
the matter conducted under division (E) of section 4717.03 of the 878
Revised Code, the board of embalmers and funeral directors finds 879
that any of the circumstances described in divisions (A)(1) to 880
(10) of this section apply to the person named in its proposed 881
action, the board may issue a final order under division (E) of 882
section 4717.03 of the Revised Code refusing to issue or renew, or 883
suspending or revoking, the person's license to operate a 884

crematory facility. 885

(C) If the board of embalmers and funeral directors 886
determines that there is clear and convincing evidence that any of 887
the circumstances described in divisions (A)(1) to (10) of this 888
section apply to the holder of a license issued under this chapter 889
and that the licensee's continued practice presents a danger of 890
immediate and serious harm to the public, the board may suspend 891
the licensee's license without a prior adjudicatory hearing. The 892
executive director of the board shall prepare written allegations 893
for consideration by the board. 894

The board, after reviewing the written allegations, may 895
suspend a license without a prior hearing. 896

The board shall issue a written order of suspension by 897
certified mail or in person in accordance with section 119.07 of 898
the Revised Code. Such an order is not subject to suspension by 899
the court during the pendency of any appeal filed under section 900
119.12 of the Revised Code. If the holder of an embalmer's, 901
funeral director's, funeral home, or embalming facility license 902
requests an adjudicatory hearing by the board, the date set for 903
the hearing shall be within fifteen days, but not earlier than 904
seven days, after the licensee has requested a hearing, unless the 905
board and the licensee agree to a different time for holding the 906
hearing. 907

Upon issuing a written order of suspension to the holder of a 908
license to operate a crematory facility, the board of embalmers 909
and funeral directors shall send written notice of the issuance of 910
the order to the crematory review board. The crematory review 911
board shall hold an adjudicatory hearing on the order under 912
division (E) of section 4717.03 of the Revised Code within fifteen 913
days, but not earlier than seven days, after the issuance of the 914
order, unless the crematory review board and the licensee agree to 915
a different time for holding the adjudicatory hearing. 916

Any summary suspension imposed under this division shall 917
remain in effect, unless reversed on appeal, until a final 918
adjudicatory order issued by the board of embalmers and funeral 919
directors pursuant to this division and Chapter 119. of the 920
Revised Code, or division (E) of section 4717.03 of the Revised 921
Code, as applicable, becomes effective. The board of embalmers and 922
funeral directors shall issue its final adjudicatory order within 923
sixty days after the completion of its hearing or, in the case of 924
the summary suspension of a license to operate a crematory 925
facility, within sixty days after completion of the adjudicatory 926
hearing by the crematory review board. A failure to issue the 927
order within that time results in the dissolution of the summary 928
suspension order, but does not invalidate any subsequent final 929
adjudicatory order. 930

(D) If the board of embalmers and funeral directors suspends 931
or revokes a license held by a funeral director or a funeral home 932
for any reason identified in division (A) of this section and the 933
board has clear and convincing evidence that the funeral home that 934
holds the suspended or revoked license or the licensed funeral 935
home that employs the funeral director that holds the suspended or 936
revoked license is insolvent or is unable to perform its 937
contractual obligation under the preneed funeral contracts to 938
which it is a party, the board may file a complaint with the court 939
of common pleas in the county where the funeral home is located 940
requesting appointment of a receiver to operate or liquidate such 941
funeral home. If the court of common pleas is satisfied with the 942
application for a receivership, the court may appoint a receiver. 943

The board or a receiver may employ and procure whatever 945
assistance or advice is necessary in the receivership or 946
liquidation and distribution of the assets of the funeral home, 947
and, for that purpose, may retain officers or employees of the 948

funeral home as needed. All expenses of the receivership or 949
liquidation shall be paid from the assets of the funeral home and 950
shall be a lien on those assets, and that lien shall be a priority 951
to any other lien. 952

(E) Any holder of a license issued under this chapter who has 953
pleaded guilty to, has been found by a judge or jury to be guilty 954
of, or has had a judicial finding of eligibility for treatment in 955
lieu of conviction entered against the individual in this state 956
for aggravated murder, murder, voluntary manslaughter, felonious 957
assault, kidnapping, rape, sexual battery, gross sexual 958
imposition, aggravated arson, aggravated robbery, or aggravated 959
burglary, or who has pleaded guilty to, has been found by a judge 960
or jury to be guilty of, or has had a judicial finding of 961
eligibility for treatment in lieu of conviction entered against 962
the individual in another jurisdiction for any substantially 963
equivalent criminal offense, is hereby suspended from practice 964
under this chapter by operation of law, and any license issued to 965
the individual under this chapter is hereby suspended by operation 966
of law as of the date of the guilty plea, verdict or finding of 967
guilt, or judicial finding of eligibility for treatment in lieu of 968
conviction, regardless of whether the proceedings are brought in 969
this state or another jurisdiction. The board shall notify the 970
suspended individual of the suspension of the individual's license 971
by the operation of this division by certified mail or in person 972
in accordance with section 119.07 of the Revised Code. If an 973
individual whose license is suspended under this division fails to 974
make a timely request for an adjudicatory hearing, the board shall 975
enter a final order revoking the license. 976

~~(E)~~(F) No person whose license has been suspended or revoked 977
under or by the operation of this section shall practice embalming 978
or funeral directing or operate a funeral home, embalming 979
facility, or crematory facility until the board has reinstated the 980

person's license. 981

Sec. 4717.31. (A) Only a funeral director licensed pursuant 982
to this chapter may sell a preneed funeral contract that includes 983
funeral services. Sections 4717.31 to 4717.38 of the Revised Code 984
do not prohibit a person who is not a licensed funeral director 985
from selling funeral goods pursuant to a preneed funeral contract; 986
however, when a seller sells funeral goods pursuant to a preneed 987
funeral contract, that seller shall comply with those sections 988
unless the seller is specifically exempt from compliance under 989
section 4717.38 of the Revised Code. 990

(B) An insurance agent licensed pursuant to Chapter 3905. of 991
the Revised Code may sell, solicit, or negotiate the sale of an 992
insurance policy or annuity that will be used to fund a preneed 993
funeral contract, but in so doing the insurance agent may not 994
offer advice or make recommendations about funeral services and 995
may not discuss the advantages or disadvantages of any funeral 996
service. In selling, soliciting, or negotiating the sale of an 997
insurance policy or annuity that will be used to fund a preneed 998
funeral contract, the insurance agent may do any of the following: 999

(1) Provide the person purchasing the insurance or annuity 1000
with price lists from one or more funeral homes and other 1001
materials that may assist the person in determining the cost of 1002
funeral goods and services; 1003

(2) Discuss the cost of funeral goods and services with the 1004
person in order to assist the person in selecting the appropriate 1005
amount of life insurance or annuity coverage; 1006

(3) Complete a worksheet or other record to calculate the 1007
estimated cost of a funeral. 1008

(C) Activities conducted pursuant to division (B) of this 1009
section by an insurance agent licensed pursuant to Chapter 3905. 1010

of the Revised Code do not constitute funeral directing, funeral
arranging, the business of directing and supervising funerals for
profit, or the sale of a preneed funeral contract. 1011
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(D) No seller shall fail to comply with the requirements and
duties specified in this section and sections 4717.32 to 4717.38
of the Revised Code. 1014
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(E) No trustee of a preneed funeral contract trust shall fail
to comply with sections 4717.33, 4717.34, 4717.36, and 4717.37 of
the Revised Code. 1017
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1019

(F) No insurance agent or insurance company that sells or
offers life insurance policies or annuities used to fund a preneed
funeral contract shall fail to comply with this section and
sections 4717.33, 4717.34, 4717.35, and 4717.37 of the Revised
Code. To the extent this section and sections 4717.33, 4717.34,
4717.35, and 4717.37 of the Revised Code apply to insurance
companies or insurance agents, those sections constitute laws of
this state relating to insurance for purposes of sections 3901.03
and 3901.04 of the Revised Code and the superintendent of
insurance shall enforce those sections with respect to insurance
companies and insurance agents. The superintendent may adopt rules
in accordance with Chapter 119. of the Revised Code for purposes
of administering and enforcing this section and sections 4717.33,
4717.34, 4717.35, and 4717.37 of the Revised Code as those
sections apply to insurance companies or insurance agents. 1020
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(G) A preneed funeral contract may be funded by the purchase
or assignment of an insurance policy or annuity in accordance with
section 3905.45 of the Revised Code. A preneed funeral contract
that is funded by the purchase or assignment of an insurance
policy or annuity in accordance with section 3905.45 of the
Revised Code is not subject to section 4717.36 of the Revised
Code. 1035
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(H) The board of embalmers and funeral directors shall 1043
administer and enforce the provisions of sections 4717.31 to 1044
4717.38 of the Revised Code concerning the requirements for and 1045
sale of preneed funeral contracts. The superintendent of insurance 1046
shall enforce sections 4717.31, 4717.33, 4717.34, 4717.35, and 1047
4717.37 of the Revised Code to the extent those sections apply to 1048
insurance companies and insurance agents. Payments from a trust, 1049
insurance policy, or annuity, including any fraudulent activities 1050
in which a person engages to obtain payments from a trust, 1051
insurance policy, or annuity, shall be regulated in accordance 1052
with Chapter 1111. or Title XXXIX of the Revised Code, as 1053
applicable. 1054

(I) A seller of a preneed funeral contract that is funded by 1055
insurance or otherwise annually shall submit to the board the 1056
reports the board requires pursuant to division (J) of this 1057
section. 1058

(J) The board shall adopt rules specifying the procedures and 1059
requirements for annual reporting of the sales of all preneed 1060
funeral contracts sold by every seller who is subject to sections 1061
4717.31 to 4717.38 of the Revised Code. 1062

Sec. 4717.32. (A) Any preneed funeral contract that involves 1063
the payment of money or the purchase or assignment of an insurance 1064
policy or annuity shall be in writing and shall include all of the 1065
following information: 1066

(1) The name, address, and phone number of the seller and the 1067
name and address of the purchaser of the contract, and, if the 1068
contract beneficiary is someone other than the purchaser of the 1069
contract, the name and address of the contract beneficiary, and if 1070
the contract involves the payment of money but not the purchase or 1071
assignment of an insurance policy or annuity, the social security 1072
number of the purchaser of the contract or if the contract 1073

beneficiary is someone other than the purchaser, the social 1074
security number of the contract beneficiary; 1075

(2) A statement of the funeral goods and funeral services 1076
purchased, which disclosure may be made by attaching a copy of the 1077
completed statement of funeral goods and services selected to the 1078
preneed funeral contract; 1079

(3) A disclosure informing the purchaser whether the contract 1080
is either a guaranteed preneed funeral contract or a nonguaranteed 1081
preneed funeral contract, and, if the contract is guaranteed only 1082
in part, a disclosure specifying the funeral goods or funeral 1083
services included in the guarantee; 1084

(4) If the preneed funeral contract is a guaranteed contract, 1085
a disclosure that the seller, in exchange for all of the proceeds 1086
of the trust, insurance policy, or annuity, shall provide the 1087
funeral goods and funeral services set forth in the preneed 1088
funeral contract without regard to the actual cost of such funeral 1089
goods and funeral services prevailing at the time of performance 1090
and that the seller may receive any excess funds remaining after 1091
all expenses for the funeral have been paid. 1092

(5) If the preneed funeral contract is a nonguaranteed 1093
contract, a disclosure that the proceeds of the trust, insurance 1094
policy, or annuity shall be applied to the retail prices in effect 1095
at the time of the funeral for the funeral goods and funeral 1096
services set forth in the contract, that any excess funds 1097
remaining after all expenses for the funeral have been paid shall 1098
be paid to the estate of the decedent or the beneficiary named in 1099
the life insurance policy if the preneed funeral contract is 1100
funded by a life insurance policy, and that, in the event of an 1101
insufficiency in funds, the seller shall not be required to 1102
perform until payment arrangements satisfactory to the seller have 1103
been made. 1104

(6) A disclosure that the purchaser has the right to make the contract irrevocable and that if the preneed funeral contract is irrevocable, the purchaser does not have a right to revoke the contract; 1105
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(7) A disclosure informing the purchaser of the initial right to cancel the preneed funeral contract within seven days as provided in division (A) of section 4717.34 of the Revised Code and the right to revoke a revocable preneed funeral contract in accordance with section 4717.35 or division (E) of section 4717.36 of the Revised Code, as applicable; 1109
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(8) A disclosure that the seller may substitute funeral goods or funeral services of equal quality, value, and workmanship if those specified in the preneed funeral contract are unavailable at the time of need; 1115
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1117
1118

(9) A disclosure that any purchaser of funeral goods and funeral services is entitled to receive price information prior to making that purchase in accordance with the federal trade commission's funeral industry practices revised rule, 16 C.F.R. part 453; 1119
1120
1121
1122
1123

(10) The following notice in boldface print and in substantially the following form: 1124
1125

"NOTICE: Under Ohio law, the person holding the right of disposition of the remains of the individual contract beneficiary pursuant to section 2108.70 or 2108.81 of the Revised Code will have the right to make funeral arrangements inconsistent with the arrangements set forth in this contract. However, the individual contract beneficiary is encouraged to state his or her preferences as to funeral arrangements in a declaration of the right of disposition pursuant to section 2108.72 of the Revised Code, including that the arrangements set forth in this contract shall be followed." 1126
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(11) The notice described in division (A) of section 4717.34 1136
of the Revised Code. 1137

(B) If a preneed funeral contract is funded by any means 1138
other than an insurance policy or policies, or an annuity or 1139
annuities, the preneed funeral contract shall include all of the 1140
following information in addition to the information required to 1141
be included under division (A) of this section: 1142

(1) Disclosures identifying the name and address of the 1143
trustee of the preneed funeral contract trust established pursuant 1144
to section 4717.36 of the Revised Code, indicating whether fees, 1145
expenses, or taxes will be deducted from the trust, and a 1146
statement of who will be responsible for the taxes owed on the 1147
trust earnings; 1148

(2) A disclosure explaining the form in which the purchase 1149
price must be paid and, if the price is to be paid in 1150
installments, a disclosure to the purchaser regarding what 1151
constitutes a default under the preneed funeral contract and the 1152
consequences of the default; 1153

(3) The following notice in boldface print and in 1154
substantially the following form: 1155

"NOTICE: You, as the purchaser of this contract, will be 1156
notified in writing when the trustee of this contract has received 1157
a deposit of the funds you paid the seller under this contract. If 1158
you do not receive that notice within sixty days after the date 1159
you paid the funds to the seller, you should contact the trustee 1160
identified in the contract." 1161

(4) A disclosure that a purchaser of a preneed funeral 1162
contract that is irrevocable and that stipulates a firm or fixed 1163
or guaranteed price for the funeral services and goods to be 1164
provided under the preneed funeral contract may be charged a 1165
transfer fee as specified in division (F) of section 4717.36 of 1166

the Revised Code if the purchaser wishes to transfer the contract 1167
to another seller. 1168

(C) If a preneed funeral contract is funded by the purchase 1169
or assignment of one or more insurance policies or annuities, the 1170
preneed funeral contract shall include all of the following 1171
information in addition to the information required to be included 1172
under division (A) of this section: 1173

(1) The name and address of each applicable insurance company 1174
and any right the purchaser has regarding canceling or 1175
transferring the applicable insurance policies or annuities; 1176

(2) A description of the terms of payment for any remaining 1177
payments due if the funding is to be paid in installments; 1178

(3) A list of actions that constitute default under a preneed 1179
funeral contract and the consequences of a default; 1180

(4) The following notice in boldface print and in 1181
substantially the following form: 1182

"NOTICE: You, as the purchaser of this contract, will be 1183
notified in writing by the insurance company identified in this 1184
contract when the insurance policy or policies, or annuity or 1185
annuities, that will fund this contract have been issued. If you 1186
do not receive the notice within sixty days after the date you 1187
paid the funds to the seller, you should contact the insurance 1188
company identified in the contract." 1189

(D) The seller of a preneed funeral contract that is funded 1190
by the purchase or assignment of one or more insurance policies or 1191
annuities does not need to include in the contract the information 1192
described in divisions (C)(2) and (3) of this section if those 1193
disclosures are provided in the application for a life insurance 1194
policy or annuity or in the life insurance policy or annuity. 1195

Sec. 4717.33. (A) If a preneed funeral contract is funded by 1196

any means other than an insurance policy or policies, or an 1197
annuity or annuities, the trustee of the trust created pursuant to 1198
section 4717.36 of the Revised Code shall notify the purchaser of 1199
the preneed funeral contract in writing, within fifteen days after 1200
the trustee receives any payment to be deposited into the trust, 1201
that the trustee has received payment. The notice shall include 1202
all of the following information: 1203

(1) The amount the trustee received; 1204

(2) The name and address of the institution described in 1205
division (B) of section 4717.36 of the Revised Code where the 1206
trust is being held; 1207

(3) The name of the beneficiary of that trust. 1208

(B) If a preneed funeral contract is funded by the purchase 1209
or assignment of one or more insurance policies or annuities, the 1210
insurance company shall notify the purchaser of the preneed 1211
funeral contract in writing within sixty days after the insurance 1212
company receives an initial premium payment applicable to that 1213
preneed funeral contract. The notice shall include all of the 1214
following information that is pertinent to that preneed funeral 1215
contract: 1216

(1) The amount the insurance company received; 1217

(2) The name and address of the insurance company; 1218

(3) The name of the insured; 1219

(4) The amount of the death benefit; 1220

(5) The policy or contract number of the insurance policy, 1221
annuity, or contract. 1222

(C) For purposes of division (B) of this section, delivery of 1223
an insurance policy, certificate, annuity, or contract to the 1224
purchaser shall satisfy the notice requirement specified in that 1225

division. 1226

Sec. 4717.34. (A) Any purchaser, on initially entering into a 1227
preneed funeral contract may, within seven days after entering 1228
into that contract, rescind the contract and request and receive 1229
from the seller of the contract one hundred per cent of all 1230
payments made under the contract. Each preneed funeral contract 1231
shall contain the following notice in boldface print and in 1232
substantially the following form: 1233

"NOTICE: Under Ohio law, you, as the purchaser of this 1234
contract, may rescind it and receive a refund of all payments you 1235
made under the contract. To rescind the contract, you must notify 1236
the seller within seven days of signing the contract." 1237

(B) No preneed funeral contract shall contain a provision 1238
that restricts the purchaser from making the contract irrevocable. 1239
On the purchase by an individual of an irrevocable preneed funeral 1240
contract, the funeral director who sold the contract assumes the 1241
legal obligation to provide for the funeral of the individual 1242
pursuant to the terms of the contract. No money deposited in a 1243
trust fund for an irrevocable preneed funeral contract shall be 1244
withdrawn to purchase an insurance policy or annuity, except that 1245
a trustee may use money in the trust fund to purchase a life 1246
insurance policy or annuity as an investment for the trust fund. 1247

Sec. 4717.35. If a preneed funeral contract contains a 1248
provision stating that the preneed funeral contract will be funded 1249
by the purchase of an insurance policy, the insurance agent who 1250
sold the policy that will fund that preneed funeral contract shall 1251
remit the application for insurance and the premium paid to the 1252
insurance company designated in the preneed funeral contract 1253
within the time period specified in division (B)(15) of section 1254
3905.14 of the Revised Code, unless the purchaser rescinds the 1255

preneed funeral contract in accordance with division (A) of 1256
section 4717.34 of the Revised Code. 1257

If the purchaser of a preneed funeral contract that is 1258
revocable and that is funded by an insurance policy or annuity 1259
elects to cancel the preneed funeral contract, the purchaser shall 1260
provide a written notice to the seller and the insurance company 1261
designated in the contract stating that the purchaser intends to 1262
cancel that contract. Fifteen days after the purchaser provides 1263
the notice to the seller of the contract and the insurance 1264
company, the purchaser may cancel the preneed funeral contract and 1265
change the beneficiary of the insurance policy or annuity or 1266
reassign the benefits under the policy or annuity. 1267

The purchaser of a preneed funeral contract that is 1268
irrevocable and that is funded by an insurance policy or annuity 1269
may transfer the preneed funeral contract to a successor seller by 1270
notifying the original seller of the designation of a successor 1271
seller. Within fifteen days after receiving the written notice of 1272
the designation of the successor seller from the purchaser, the 1273
original seller shall assign the seller's rights to the proceeds 1274
of the policy to the successor seller. The insurance company shall 1275
confirm the change of assignment by providing written notice to 1276
the policyholder. 1277

Sec. 4717.36. (A) This section applies only to preneed 1278
funeral contracts that are funded by any means other than an 1279
insurance policy or policies, or an annuity or annuities. 1280

One hundred per cent of all payments for funeral goods and 1281
funeral services made under a preneed funeral contract shall 1282
remain intact and held in trust in accordance with this section 1283
for the benefit of the contract beneficiary. No money in a preneed 1284
funeral contract trust shall be distributed from the trust except 1285

as provided in this section. Within thirty days after the provider 1286
of the funeral goods or funeral services receives any payment 1287
under a preneed funeral contract, the seller of the preneed 1288
funeral contract shall deliver the moneys received for that 1289
preneed funeral contract that have not been returned to the 1290
purchaser as provided in division (A) of section 4717.34 of the 1291
Revised Code to the trustee designated in the preneed funeral 1292
contract. 1293

(B) The seller shall establish a preneed funeral contract 1294
trust at one of the following types of institutions and shall 1295
designate that institution as the trustee of the preneed funeral 1296
contract trust: 1297

(1) A trust company licensed under Chapter 1111. of the 1298
Revised Code; 1299

(2) A national bank, federal savings bank, or federal savings 1300
association that pledges securities in accordance with section 1301
1111.04 of the Revised Code; 1302

(3) A credit union authorized to conduct business in this 1303
state pursuant to Chapter 1733. of the Revised Code. 1304

(C) Moneys deposited in a preneed funeral contract trust fund 1305
shall be held and invested in the manner in which trust funds are 1306
permitted to be held and invested pursuant to Chapter 1111. of the 1307
Revised Code. 1308

(D) The seller shall establish a separate preneed funeral 1309
contract trust for the moneys paid under each preneed funeral 1310
contract, unless the purchaser or purchasers of a preneed funeral 1311
contract or contracts authorize the seller to place the moneys 1312
paid for that contract or those contracts in a combined preneed 1313
funeral contract trust. The trustee of a combined preneed funeral 1314
contract trust shall keep exact records of the corpus, income, 1315
expenses, and disbursements with regard to each purchaser and 1316

contract beneficiary for whom moneys are held in the trust. The 1317
terms of a preneed funeral contract trust are governed by this 1318
section and the payments from that trust are governed by Chapter 1319
1111. of the Revised Code, except as otherwise provided in this 1320
section. 1321

A trustee of a preneed funeral contract trust may pay taxes 1322
and expenses for a preneed funeral contract trust and may charge a 1323
fee for managing a preneed funeral contract trust. The fee shall 1324
not exceed the amount regularly or usually charged for similar 1325
services rendered by the institutions described in division (B) of 1326
this section when serving as a trustee. The taxes, expenses, and 1327
fees shall be paid only from the accumulated income on that trust. 1328

(E) If the purchaser of a preneed funeral contract that is 1329
revocable elects to cancel the contract, the purchaser shall 1330
provide a written notice to the seller of the contract and the 1331
trustee of the preneed funeral contract trust stating that the 1332
purchaser intends to cancel the contract. Fifteen days after the 1333
purchaser provides that notice to the seller and trustee, the 1334
purchaser may cancel the contract. Upon canceling a preneed 1335
funeral contract pursuant to this division, one of the following 1336
shall occur, as applicable: 1337

(1) If the preneed funeral contract does not stipulate a firm 1338
or fixed or guaranteed price for funeral goods and funeral 1339
services to be provided under the preneed funeral contract, the 1340
trustee shall give to the purchaser all of the assets of the trust 1341
that exist at the time of cancellation, less any fees charged, 1342
distributions paid, and expenses incurred by the trustee pursuant 1343
to division (D) of this section. 1344

(2) If the preneed funeral contract does stipulate a firm or 1345
fixed or guaranteed price for funeral goods and funeral services 1346
to be provided under the contract, the purchaser may request and 1347
receive from the trustee all of the assets of the trust at the 1348

time of cancellation, less a cancellation fee that the original 1349
seller may collect from the trustee that is equal to or less than 1350
ten per cent of the value of the assets of the trust on the date 1351
the trust is cancelled and less any fees charged, distributions 1352
paid, and expenses incurred by the trustee pursuant to division 1353
(D) of this section. 1354

If more than one purchaser enters into the contract, all of 1355
those purchasers must request cancellation of the contract for it 1356
to be effective under this division, and the trustee shall refund 1357
to each purchaser only those funds that purchaser has paid under 1358
the contract and any income earned on those funds in an amount 1359
that is in direct proportion to the amount of funds that purchaser 1360
paid relative to the total amount of payments deposited in that 1361
trust, less any fees charged, distributions paid, and expenses 1362
incurred by the trustee pursuant to division (D) of this section, 1363
the amount of which are in direct proportion to the amount of 1364
funds that purchaser paid relative to the total amount of payments 1365
deposited in that trust. 1366

(F) The purchaser of a preneed funeral contract that is 1367
irrevocable may transfer the preneed funeral contract to a 1368
successor seller. A purchaser who elects to make such a transfer 1369
shall provide a written notice of the designation of a successor 1370
seller to the trustee and the original seller. Within fifteen days 1371
after receiving the written notice of the new designation from the 1372
purchaser, the trustee shall list the successor seller as the 1373
seller of the preneed funeral contract and the original seller 1374
shall relinquish and transfer all rights under the preneed funeral 1375
contract to the successor seller. The trustee shall confirm the 1376
transfer by providing written notice of the transfer to the 1377
original seller, the successor seller, and the purchaser. If the 1378
preneed funeral contract stipulates a firm or fixed or guaranteed 1379
price for the funeral goods and funeral services to be provided 1380

under the preneed funeral contract, the original seller may 1381
collect from the trustee a transfer fee from the trust that equals 1382
up to ten per cent of the value of the assets of the trust on the 1383
date the trust is transferred. If the preneed funeral contract 1384
does not stipulate a firm or fixed or guaranteed price for funeral 1385
goods and funeral services to be provided under the preneed 1386
funeral contract, no transfer fee shall be collected by the 1387
original seller. 1388

(G) If a seller of a preneed funeral contract elects to 1389
transfer a preneed funeral contract trust from an institution 1390
listed in divisions (B)(1) to (3) of this section to a different 1391
institution, the trustee of the original trust shall notify the 1392
purchaser of the preneed funeral contract of that transfer in 1393
writing within thirty days after the transfer occurred and shall 1394
provide the purchaser with the name of and the contact information 1395
for the institution where the new trust is maintained. Upon 1396
receipt of the trust, the trustee of the transferred trust shall 1397
notify the purchaser of the receipt of the trusts in accordance 1398
with division (A) of section 4717.33 of the Revised Code. 1399

(H) If a seller receives a notice that the contract 1400
beneficiary has died and that funeral goods and funeral services 1401
have been provided by a provider other than the seller, except as 1402
otherwise specified in this section, the seller shall direct the 1403
trustee, within thirty days after receiving that notice, to pay to 1404
the contract beneficiary all funds held by the trustee, less any 1405
fees charged, distributions paid, and expenses incurred by the 1406
trustee pursuant to division (D) of this section. In the event the 1407
preneed funeral contract stipulates a firm or fixed or guaranteed 1408
price for funeral goods and funeral services that were to be 1409
provided under the preneed funeral contract, the seller may 1410
collect from the trustee a cancellation fee not exceeding ten per 1411
cent of the value of the assets of the trust on the date the trust 1412

is transferred. If the preneed funeral trust does not stipulate a 1413
firm or fixed or guaranteed price for funeral goods and funeral 1414
services to be provided under the preneed funeral contract, no 1415
cancellation fees shall be collected by the original seller. 1416

(I) A certified copy of the certificate of death or other 1417
evidence of death satisfactory to the trustee shall be furnished 1418
to the trustee as evidence of death, and the trustee shall 1419
promptly pay the accumulated payments and income, if any, 1420
according to the preneed funeral contract. Such payment of the 1421
accumulated payments and income pursuant to this section and, when 1422
applicable, the preneed funeral contract, relieves the trustee of 1423
any further liability on the accumulated payments and income. 1424

Sec. 4717.37. For purposes of sections 4717.31 to 4717.38 of 1425
the Revised Code, a seller is considered to have delivered funeral 1426
goods pursuant to a preneed funeral contract when the seller makes 1427
actual delivery of the goods to the contract beneficiary. 1428

Sec. 4717.38. Sections 4717.31 to 4717.38 of the Revised Code 1429
shall be construed as a limitation on the manner in which a person 1430
is permitted to accept funds in prepayment for funeral services to 1431
be performed in the future, or funeral goods to be used in 1432
connection with the funeral or final disposition of human remains, 1433
to the end that at all times members of the public may have an 1434
opportunity to arrange and pay for a funeral for themselves and 1435
their families in advance of need while at the same time providing 1436
all possible safeguards to ensure that prepaid funds cannot be 1437
dissipated, whether intentionally or not, but remain available for 1438
payment for funeral goods and funeral services in connection with 1439
the funeral or final disposition of dead human bodies. 1440

Sections 4717.31 to 4717.38 of the Revised Code do not apply 1442

to a seller if that seller is an established and legally 1443
cognizable church or denomination that is exempt from federal 1444
income taxation under section 501(c)(3) of the "Internal Revenue 1445
Code of 1986," 100 Stat. 2085, 26 U.S.C. 501, as amended, and the 1446
preneed funeral contract pertains to a cemetery owned and operated 1447
entirely and exclusively by the church or denomination, on the 1448
condition that the church or denomination adopts, on a voluntary 1449
basis, rules and other measures to safeguard and secure all funds 1450
received under any preneed funeral contract. 1451

Any money, insurance policies, annuities, or other items 1452
delivered in payment of a preneed funeral contract, and any funds 1453
held in trust pursuant to section 4717.36 of the Revised Code, are 1454
exempt from levy, attachment, or sale to satisfy a judgment or 1455
order. 1456

Sec. 4717.99. Whoever violates any provision of sections 1457
4717.01 to 4717.15; division (A) or (B) of section 4717.23; 1458
division (B)(1) or (2), (C)(1) or (2), (D), (E), or (F)(1) or (2), 1459
or divisions (H) to (K) of section 4717.26; division (D)(1) of 1460
section 4717.27; or divisions (A) to (C) of section 4717.28 of the 1461
Revised Code shall be fined not less than one hundred nor more 1462
than five thousand dollars, or imprisoned for not more than one 1463
year, or both, for the first offense. For each subsequent offense 1464
such a person shall be fined not less than one hundred nor more 1465
than ten thousand dollars, or imprisoned for not more than one 1466
year, or both. 1467

Whoever purposely violates division (D) or (E) of section 1468
4717.31 of the Revised Code is guilty of a misdemeanor of the 1469
third degree. If the purpose of a violation of that division is to 1470
commit or facilitate the commission of a felony, whoever violates 1471
that division is guilty of a felony of the fourth degree. 1472

1473

Sec. 5747.02. (A) For the purpose of providing revenue for 1474
the support of schools and local government functions, to provide 1475
relief to property taxpayers, to provide revenue for the general 1476
revenue fund, and to meet the expenses of administering the tax 1477
levied by this chapter, there is hereby levied on every 1478
individual, trust, and estate residing in or earning or receiving 1479
income in this state, on every individual, trust, and estate 1480
earning or receiving lottery winnings, prizes, or awards pursuant 1481
to Chapter 3770. of the Revised Code, and on every individual, 1482
trust, and estate otherwise having nexus with or in this state 1483
under the Constitution of the United States, an annual tax 1484
measured in the case of individuals by Ohio adjusted gross income 1485
less an exemption for the taxpayer, the taxpayer's spouse, and 1486
each dependent as provided in section 5747.025 of the Revised 1487
Code; measured in the case of trusts by modified Ohio taxable 1488
income under division (D) of this section; and measured in the 1489
case of estates by Ohio taxable income. The tax imposed by this 1490
section on the balance thus obtained is hereby levied as follows: 1491

(1) For taxable years beginning in 2004: 1492

OHIO ADJUSTED GROSS INCOME LESS 1493

EXEMPTIONS (INDIVIDUALS)

OR 1494

MODIFIED OHIO 1495

TAXABLE INCOME (TRUSTS) 1496

OR 1497

OHIO TAXABLE INCOME (ESTATES) TAX 1498

\$5,000 or less .743% 1499

More than \$5,000 but not more \$37.15 plus 1.486% of the amount 1500
than \$10,000 in excess of \$5,000

More than \$10,000 but not more \$111.45 plus 2.972% of the 1501
than \$15,000 amount in excess of \$10,000

More than \$15,000 but not more \$260.05 plus 3.715% of the 1502

than \$20,000	amount in excess of \$15,000	
More than \$20,000 but not more than \$40,000	\$445.80 plus 4.457% of the amount in excess of \$20,000	1503
More than \$40,000 but not more than \$80,000	\$1,337.20 plus 5.201% of the amount in excess of \$40,000	1504
More than \$80,000 but not more than \$100,000	\$3,417.60 plus 5.943% of the amount in excess of \$80,000	1505
More than \$100,000 but not more than \$200,000	\$4,606.20 plus 6.9% of the amount in excess of \$100,000	1506
More than \$200,000	\$11,506.20 plus 7.5% of the amount in excess of \$200,000	1507
(2) For taxable years beginning in 2005:		1508
OHIO ADJUSTED GROSS INCOME LESS		1509
EXEMPTIONS (INDIVIDUALS)		
OR		1510
MODIFIED OHIO		1511
TAXABLE INCOME (TRUSTS)		1512
OR		1513
OHIO TAXABLE INCOME (ESTATES)	TAX	1514
\$5,000 or less	.712%	1515
More than \$5,000 but not more than \$10,000	\$35.60 plus 1.424% of the amount in excess of \$5,000	1516
More than \$10,000 but not more than \$15,000	\$106.80 plus 2.847% of the amount in excess of \$10,000	1517
More than \$15,000 but not more than \$20,000	\$249.15 plus 3.559% of the amount in excess of \$15,000	1518
More than \$20,000 but not more than \$40,000	\$427.10 plus 4.27% of the amount in excess of \$20,000	1519
More than \$40,000 but not more than \$80,000	\$1,281.10 plus 4.983% of the amount in excess of \$40,000	1520
More than \$80,000 but not more than \$100,000	\$3,274.30 plus 5.693% of the amount in excess of \$80,000	1521
More than \$100,000 but not more	\$4,412.90 plus 6.61% of the	1522

than \$200,000	amount in excess of \$100,000	
More than \$200,000	\$11,022.90 plus 7.185% of the amount in excess of \$200,000	1523
(3) For taxable years beginning in 2006:		1524
OHIO ADJUSTED GROSS INCOME LESS		1525
EXEMPTIONS (INDIVIDUALS)		
OR		1526
MODIFIED OHIO		1527
TAXABLE INCOME (TRUSTS)		1528
OR		1529
OHIO TAXABLE INCOME (ESTATES)	TAX	1530
\$5,000 or less	.681%	1531
More than \$5,000 but not more than \$10,000	\$34.05 plus 1.361% of the amount in excess of \$5,000	1532
More than \$10,000 but not more than \$15,000	\$102.10 plus 2.722% of the amount in excess of \$10,000	1533
More than \$15,000 but not more than \$20,000	\$238.20 plus 3.403% of the amount in excess of \$15,000	1534
More than \$20,000 but not more than \$40,000	\$408.35 plus 4.083% of the amount in excess of \$20,000	1535
More than \$40,000 but not more than \$80,000	\$1,224.95 plus 4.764% of the amount in excess of \$40,000	1536
More than \$80,000 but not more than \$100,000	\$3,130.55 plus 5.444% of the amount in excess of \$80,000	1537
More than \$100,000 but not more than \$200,000	\$4,219.35 plus 6.32% of the amount in excess of \$100,000	1538
More than \$200,000	\$10,539.35 plus 6.87% of the amount in excess of \$200,000	1539
(4) For taxable years beginning in 2007:		1540
OHIO ADJUSTED GROSS INCOME LESS		1541
EXEMPTIONS (INDIVIDUALS)		
OR		1542

MODIFIED OHIO		1543
TAXABLE INCOME (TRUSTS)		1544
OR		1545
OHIO TAXABLE INCOME (ESTATES)	TAX	1546
\$5,000 or less	.649%	1547
More than \$5,000 but not more than \$10,000	\$32.45 plus 1.299% of the amount in excess of \$5,000	1548
More than \$10,000 but not more than \$15,000	\$97.40 plus 2.598% of the amount in excess of \$10,000	1549
More than \$15,000 but not more than \$20,000	\$227.30 plus 3.247% of the amount in excess of \$15,000	1550
More than \$20,000 but not more than \$40,000	\$389.65 plus 3.895% of the amount in excess of \$20,000	1551
More than \$40,000 but not more than \$80,000	\$1,168.65 plus 4.546% of the amount in excess of \$40,000	1552
More than \$80,000 but not more than \$100,000	\$2,987.05 plus 5.194% of the amount in excess of \$80,000	1553
More than \$100,000 but not more than \$200,000	\$4,025.85 plus 6.031% of the amount in excess of \$100,000	1554
More than \$200,000	\$10,056.85 plus 6.555% of the amount in excess of \$200,000	1555
(5) For taxable years beginning in 2008:		1556
OHIO ADJUSTED GROSS INCOME LESS EXEMPTIONS (INDIVIDUALS)		1557
OR		1558
MODIFIED OHIO TAXABLE INCOME (TRUSTS)		1559
OR		1561
OHIO TAXABLE INCOME (ESTATES)	TAX	1562
\$5,000 or less	.618%	1563
More than \$5,000 but not more than \$10,000	\$30.90 plus 1.236% of the amount in excess of \$5,000	1564
More than \$10,000 but not more	\$92.70 plus 2.473% of the amount	1565

than \$15,000	in excess of \$10,000	
More than \$15,000 but not more than \$20,000	\$216.35 plus 3.091% of the amount in excess of \$15,000	1566
More than \$20,000 but not more than \$40,000	\$370.90 plus 3.708% of the amount in excess of \$20,000	1567
More than \$40,000 but not more than \$80,000	\$1,112.50 plus 4.327% of the amount in excess of \$40,000	1568
More than \$80,000 but not more than \$100,000	\$2,843.30 plus 4.945% of the amount in excess of \$80,000	1569
More than \$100,000 but not more than \$200,000	\$3,832.30 plus 5.741% of the amount in excess of \$100,000	1570
More than \$200,000	\$9,573.30 plus 6.24% of the amount in excess of \$200,000	1571
(6) For taxable years beginning in 2009 or thereafter:		1572
OHIO ADJUSTED GROSS INCOME LESS EXEMPTIONS (INDIVIDUALS)		1573
OR		1574
MODIFIED OHIO		1575
TAXABLE INCOME (TRUSTS)		1576
OR		1577
OHIO TAXABLE INCOME (ESTATES)	TAX	1578
\$5,000 or less	.587%	1579
More than \$5,000 but not more than \$10,000	\$29.35 plus 1.174% of the amount in excess of \$5,000	1580
More than \$10,000 but not more than \$15,000	\$88.05 plus 2.348% of the amount in excess of \$10,000	1581
More than \$15,000 but not more than \$20,000	\$205.45 plus 2.935% of the amount in excess of \$15,000	1582
More than \$20,000 but not more than \$40,000	\$352.20 plus 3.521% of the amount in excess of \$20,000	1583
More than \$40,000 but not more than \$80,000	\$1,056.40 plus 4.109% of the amount in excess of \$40,000	1584
More than \$80,000 but not more	\$2,700.00 plus 4.695% of the	1585

than \$100,000	amount in excess of \$80,000	
More than \$100,000 but not more than \$200,000	\$3,639.00 plus 5.451% of the amount in excess of \$100,000	1586
More than \$200,000	\$9,090.00 plus 5.925% of the amount in excess of \$200,000	1587

In July of each year, beginning in 2010, the tax commissioner shall adjust the income amounts prescribed in this division by multiplying the percentage increase in the gross domestic product deflator computed that year under section 5747.025 of the Revised Code by each of the income amounts resulting from the adjustment under this division in the preceding year, adding the resulting product to the corresponding income amount resulting from the adjustment in the preceding year, and rounding the resulting sum to the nearest multiple of fifty dollars. The tax commissioner also shall recompute each of the tax dollar amounts to the extent necessary to reflect the adjustment of the income amounts. The rates of taxation shall not be adjusted.

The adjusted amounts apply to taxable years beginning in the calendar year in which the adjustments are made. The tax commissioner shall not make such adjustments in any year in which the amount resulting from the adjustment would be less than the amount resulting from the adjustment in the preceding year.

(B) If the director of budget and management makes a certification to the tax commissioner under division (B) of section 131.44 of the Revised Code, the amount of tax as determined under division (A) of this section shall be reduced by the percentage prescribed in that certification for taxable years beginning in the calendar year in which that certification is made.

(C) The levy of this tax on income does not prevent a municipal corporation, a joint economic development zone created under section 715.691, or a joint economic development district

created under section 715.70 or 715.71 or sections 715.72 to 1615
715.81 of the Revised Code from levying a tax on income. 1616

(D) This division applies only to taxable years of a trust 1617
beginning in 2002 or thereafter. 1618

(1) The tax imposed by this section on a trust shall be 1619
computed by multiplying the Ohio modified taxable income of the 1620
trust by the rates prescribed by division (A) of this section. 1621

(2) A credit is allowed against the tax computed under 1622
division (D) of this section equal to the lesser of (1) the tax 1623
paid to another state or the District of Columbia on the trust's 1624
modified nonbusiness income, other than the portion of the trust's 1625
nonbusiness income that is qualifying investment income as defined 1626
in section 5747.012 of the Revised Code, or (2) the effective tax 1627
rate, based on modified Ohio taxable income, multiplied by the 1628
trust's modified nonbusiness income other than the portion of 1629
trust's nonbusiness income that is qualifying investment income. 1630
The credit applies before any other applicable credits. 1631

(3) The credits enumerated in divisions (A)(1) to (13) of 1632
section 5747.98 of the Revised Code do not apply to a trust 1633
subject to this division. Any credits enumerated in other 1634
divisions of section 5747.98 of the Revised Code apply to a trust 1635
subject to this division. To the extent that the trust distributes 1636
income for the taxable year for which a credit is available to the 1637
trust, the credit shall be shared by the trust and its 1638
beneficiaries. The tax commissioner and the trust shall be guided 1639
by applicable regulations of the United States treasury regarding 1640
the sharing of credits. 1641

(E) For the purposes of this section, "trust" means any trust 1642
described in Subchapter J of Chapter 1 of the Internal Revenue 1643
Code, excluding trusts that are not irrevocable as defined in 1644
division (I)(3)(b) of section 5747.01 of the Revised Code and that 1645

have no modified Ohio taxable income for the taxable year, 1646
charitable remainder trusts, qualified funeral trusts and preneed 1647
funeral contract trusts established pursuant to ~~section 1111.19~~ 1648
sections 4717.31 to 4717.38 of the Revised Code that are not 1649
qualified funeral trusts, endowment and perpetual care trusts, 1650
qualified settlement trusts and funds, designated settlement 1651
trusts and funds, and trusts exempted from taxation under section 1652
501(a) of the Internal Revenue Code. 1653

Section 2. That existing sections 1151.345, 1161.59, 1654
1721.211, 1733.51, 2108.81, 2117.251, 3103.03, 3901.04, 3905.451, 1655
4717.01, 4717.03, 4717.13, 4717.14, 4717.99, and 5747.02 and 1656
sections 1111.19 and 1111.99 of the Revised Code are hereby 1657
repealed. 1658

Section 3. Sections 1 and 2 of this act shall take effect 1659
ninety days after the effective date of this act. 1660